

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” Iowa Administrative Code.

The purpose of the proposed rule making is to formalize permitting process improvements identified during “LEAN” events involving the Department of Natural Resources (Department) and the Office of Lean Enterprise in the Department of Management and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. LEAN is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

Item 1 amends the requirements for submitting construction permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. Additionally, Item 1 describes what constitutes a valid electronic signature for construction permit applications that may be submitted electronically.

Item 1 also establishes electronic media submission requirements necessary for compliance with the federal Cross-Media Electronic Reporting Rule adopted in 567—Chapter 15. For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross-Media Electronic Reporting Rule. However, the Department’s current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the signature page(s). The signature page(s) would need to meet the requirements of 567—Chapter 15. The Department anticipates making available in the near future an electronic application system that does accommodate a valid electronic signature that complies with the Cross-Media Electronic Reporting Rule.

Item 1 also reduces the regulatory burden for construction permit applicants for projects that will not emit greenhouse gases (GHG) by eliminating the requirement for those applicants to submit the current three-page GHG form. Applicants will instead be able to indicate that the application includes no GHG emissions in the project description.

Item 2 amends the requirements for submitting Title V permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. For the applicant’s convenience, the Commission is proposing to require that only one copy of the application (rather than two) be submitted to the Department. Additionally, Item 2 describes what constitutes a valid electronic signature for Title V Operating Permit applications that may be submitted electronically.

Item 2 also establishes electronic media submission requirements necessary for compliance with the federal Cross-Media Electronic Reporting Rule adopted in 567—Chapter 15. For example, submittal of an application by electronic mail or other electronic program would be acceptable if the application bears a valid electronic signature and otherwise complies with the requirements of the Cross-Media Electronic Reporting Rule. However, the Department’s current electronic submittal system does not accommodate the use of a valid electronic signature. Therefore, an applicant could e-mail all the pages of an application to the Department except the signature page(s). The signature page(s) would need to meet the requirements of 567—Chapter 15. As stated above, the Department anticipates making

available in the near future an electronic application system that does accommodate a valid electronic signature that complies with the Cross-Media Electronic Reporting Rule.

Anyone may make written suggestions or comments on the proposed amendments on or before February 20, 2017. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324; fax (515)725-9501; or by e-mail to [christine.paulson@dnr.iowa.gov](mailto:christine.paulson@dnr.iowa.gov).

A public hearing will be held on Monday, February 20, 2017, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on February 20, 2017.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)725-9510 or by e-mail at [christine.paulson@dnr.iowa.gov](mailto:christine.paulson@dnr.iowa.gov) to advise of any specific needs.

### **Jobs Impact Statement**

After analysis and review, the Commission has determined that the proposed amendments will have a positive impact on private sector jobs. These amendments clarify submittal aspects of the construction permit and Title V permit application processes and provide additional certainty for applications regarding the application submittal process and, in some cases, regulatory relief. For instance, facilities that had previously chosen to submit hard-copy applications by certified mail are likely to realize cost savings by using another, less expensive submittal method. In addition, there will be cost and time savings with having to submit only one copy of the Title V permit application to the Department. In addition, the requirement to submit GHG forms is being eliminated in many instances. These savings can be put back into the company (e.g., to be used for job creation).

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend subrule 22.1(3) as follows:

**22.1(3) *Construction permits.*** The owner or operator of a new or modified stationary source shall apply for a construction permit. Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department.

Each permit application submitted to the department electronically must bear a valid electronic signature and must otherwise comply with the requirements of 567—Chapter 15. A valid electronic signature, as defined in 567—Chapter 15, means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf this signature is created. At a minimum, the signature page(s) of an application must contain a valid electronic signature created using an electronic signature device. The remainder of the application may be submitted via e-mail or any other paper or electronic method. An owner or operator may submit applications with signatures that do not meet the definition of a valid electronic signature contained in 567—Chapter 15 when the documents are submitted via facsimile, electronic documents are submitted via magnetic or optical media, or non-federal state-only program information is submitted through an electronic submittal system.

The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

a. No change.

b. *Construction permit applications.* Each application for a construction permit shall be submitted to the department on the form “Air Construction Permit Application.” Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while doing work for that corporation. The application for a permit to construct shall include the following information:

(1) to (8) No change.

(9) A signed statement that ensures the applicant’s legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project; ~~and~~

(10) Application fee.

1. The owner or operator shall submit a fee as required in 567—Chapter 30 to obtain a permit under subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33;

2. For application submittals from a minor source as defined in 567—Chapter 30, the department shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the department; ~~and~~

(11) Quantity of greenhouse gas emissions for all applications for projects that will or do have greenhouse gas emissions. For all applications for projects that will not or do not have greenhouse gas emissions, the applicant shall indicate in the application that no greenhouse gases will be emitted, and the applicant will not be required to file an inventory of greenhouse gases with that application, unless requested by the department.

c. No change.

ITEM 2. Amend subrule 22.105(1) as follows:

**22.105(1) Duty to apply.** For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (~~two copies~~ one copy); and U.S. EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department.

Each permit application submitted to the department electronically must bear a valid electronic signature and must otherwise comply with the requirements of 567—Chapter 15. A valid electronic signature, as defined in 567—Chapter 15, means an electronic signature on an electronic document created by using an electronic signature device that the identified signatory is uniquely entitled to use for signing the electronic document, provided the device has not been compromised and provided the signatory is an individual authorized to sign the document by virtue of legal status or relationship to the entity on whose behalf this signature is created. At a minimum, the signature page(s) of an application must contain a valid electronic signature created using an electronic signature device. The remainder of the application may be submitted via e-mail or any other paper or electronic method. An owner or operator may submit documents with signatures that do not meet the definition of a valid electronic signature contained in 567—Chapter 15 when the documents are submitted via facsimile, electronic

documents are submitted via magnetic or optical media, or non-federal state-only program information is submitted through an electronic submittal system.

An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

*a.* and *b.* No change.